

BEFORE THE
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND EMS 2
(MC2009-10)

Docket No. CP2020-250

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING CHANGES IN RATES
NOT OF GENERAL APPLICABILITY FOR INBOUND EMS 2

(August 24, 2020)

I. BACKGROUND

The Public Representative hereby provides comments pursuant to Order No. 5639.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's filing requesting changes in rates not of general applicability for Inbound EMS 2. The Public Representative hereby comments on the Notice² filed by the Postal Service.

The Postal Service is seeking a change in rates for Inbound EMS 2. Notice at 1. Included with the Postal Service's filing are Governors' Decision No. 11-6, the proposed new rates, service performance data, and supporting documents establishing compliance with 39 U.S.C. § 3633(a)(2) filed under seal in unredacted form. *Id.* at 2. Additionally, the Postal Service's Application for Non-public Treatment is included as Attachment 1. *Id.* A redacted version of the new rates is included as Attachment 2. *Id.* The certified statement required by 39 C.F.R. § 3015.5(c)(2) is included as Attachment

¹ Notice and Order Concerning Changes in Rates for Inbound EMS 2, August 17, 2020, (Order No. 5639).

² Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, and application for non-public treatment, August 14, 2020 (Notice).

3. *Id.* A redacted copy of Governors' Decision No. 19-1 is included as Attachment 4. *Id.* at 2-3. Also included are redacted copies of the most recent annual EMS Pay-for-Performance ("PfP") Plan available (for 2020), plus the most recent available annual PfP Report Card for CY2019 as Attachments 5 and 6. *Id.* at 3.

The Postal Service's financial analysis computes the cost coverage using both the inbound EMS base rates and the lowest possible discounted inbound EMS rates that the Postal Service may offer on a contractual basis, to any of the foreign postal operators with which it exchanges EMS. *Id.* at 3.

II. COMMENTS

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Postal Service presents two cost coverage calculations to demonstrate compliance with 39 U.S.C. § 3633(a). It estimates a minimum and a maximum cost coverage for Inbound EMS 2. The maximum cost coverage calculation provides a cost coverage estimate with all countries paying the undiscounted base rate. The minimum cost coverage calculation assumes that every postal administration pays the lowest possible discounted rate. It also assumes that its service performance will not be worse than in the previous year. If service performance declines, the Postal Service may be penalized for missing PfP targets more than its estimate in the model. Additionally, as alluded to in CHIR 1³ and CHIR 2⁴, there may be other penalties unaccounted for in the calculation. Thus, the minimum cost coverage the Postal Service presents may not represent the lowest possible cost coverage, as additional penalties and more severe penalties could further reduce revenue.

³ Chairman's Information Request No. 1, August 18, 2020 (CHIR 1).

⁴ Chairman's Information Request No. 2 and Notice of Filing Under Seal, August 19, 2020 (CHIR 2).

Nonetheless, the Public Representative finds that the new rates for Inbound EMS 2 should generate sufficient revenues to cover cost, even in the unlikely scenario where the Postal Service qualifies for only the lowest prices and receives additional penalties. It is unlikely that even significantly more severe penalties would reduce the cost coverage below what is permissible under 39 U.S.C. § 3633(a), especially since the Postal Service includes a contingency in its cost estimates.

The Public Representative, after reviewing all materials the Postal Service submitted under seal in this matter, recommends that the Commission approve the change in rates for the Inbound EMS 2 product.

The Public Representative submits the preceding comments for the Commission's consideration.

Respectfully,

/s/ _____

Katalin K. Clendenin

Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6860
Katalin.Clendenin@prc.gov